

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:21-CR-72-MR-WCM**

UNITED STATES OF AMERICA

v.

JOSEPH DANIEL PERRY

ORDER

This matter is before the court on the Motion to be Excused from Court Appearance (Doc. 33), through which defense counsel Andrew Brooks requests to be excused from Defendant's Rule 11 hearing which has been set for December 6, 2021.

In support of the Motion, Mr. Brooks states that he is local counsel for Defendant, that either Murdoch Walker, II, Esq. or Katryna L. Spearman, Esq. will be in attendance with Defendant at his plea hearing, and that Mr. Brooks has a previously scheduled matter in state superior court on the same day. Below Mr. Brooks' signature block on the Motion is the reference "Local Criminal Rule 57.1(d) Counsel for Defendant."

Mr. Brooks has been advised previously that "the local rules of this district do not include a local criminal rule 57.1." Doc. 25 at 1. Further, as the undersigned has explained, "Mr. Brooks has entered a general appearance for Defendant and is representing Defendant for all purposes." Id. at 2. In other

words, Mr. Brooks is counsel of record for Defendant for all purposes, regardless of whether additional counsel have appeared for Defendant.

As for Mr. Walker and Ms. Spearman, they have been granted permission to appear *pro hac vice* for Defendant in this matter “while associated with local counsel,” that is, with Mr. Brooks. See Doc. 25 at 2. As the undersigned has also noted previously, the Local Rules require that any attorney who is admitted to practice *pro hac vice* be accompanied by local counsel at all hearings unless otherwise permitted by the Court. See Id. at 1-2, citing LCvR. 83.1 (b) (1); LCrR. 44.1.

Particularly given the uncertainties regarding the status of defense counsel that the court has addressed previously in this matter, the undersigned concludes that Mr. Brooks should be required to appear at Defendant’s Rule 11 hearing, regardless of whether Mr. Walker or Ms. Spearman also appear.

Accordingly, the Motion to be Excused from Court Appearance (Doc. 33) is **DENIED**. Mr. Brooks is also **ADVISED** that he should be prepared to participate in the plea colloquy when the court considers Defendant’s proposed guilty plea.

It is so ordered.

Signed: November 10, 2021



W. Carleton Metcalf
United States Magistrate Judge

